REMARKS

The Office Action of August 25, 2003 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 30-33, 36, and 39-48 remain pending. Claim 49 has been canceled without prejudice or disclaimer.

Claim 30 was amended to recite a greenhouse comprising a substantially transparent surface and a removable protective coating. No new issues have been raised by this amendment as the Examiner has already considered a greenhouse in claim 49 (now canceled) which recited that the transparent surface is the wall of a greenhouse. A separate rejection was applied against claim 49 which addressed application of the removable protective coating to a greenhouse. Further support for this amendment is found in the specification on page 4, lines 10-12, and Example 3 and in claim 49.

It is also respectfully pointed out that applicant has consistently argued that the protective coating is applied to transparent surfaces, in particular transparent surfaces used for greenhouses. Thus, it is respectfully submitted that the Examiner has considered the limitations of amended claim 30 and the amended claims do not raise new issues. Moreover, it is respectfully submitted that the amended claims place the application in condition for allowance.

Independent claim 30, as amended, recites a greenhouse comprising a substantially transparent surface and a protective coating on said substantially transparent surface where the protective coating comprises a pigment and a binder. The binder comprises a vinyl polymer based on one or monomers selected from the group consisting of methyl metacrylate, butyl acrylate, 2-ethylhexyl acrylate, ethyl acrylate, styrene, methacrylic acid and acrylic acid having a molecular weight of 10,000-100,000 and an acid value of 40-250. The binder has a polydisperity of 2-6 and a glass transition temperature of 10 to 60°C. The instant application is further directed to a method of making a substantially transparent surface of a greenhouse as recited in claims 46-48.

Claims 30-33, 36, 39-41, 44 and 46-48 stand rejected as being anticipated by EP '498. This rejection is in error. While the applicant disagrees that EP '498 discloses the protective coating of the present application, it also does not disclose application of a coating to the substantially transparent surface of a greenhouse. Specifically, EP' 498 fails to disclose "A greenhouse comprising: a substantially transparent surface; and a protective coating comprising a pigment and a binder, wherein the binder has the parameters outlined in claim 30, and that the protective coating is removable with a removing agent comprising a base and a complex former. Further, EP '498 fails to disclose "A method for forming a protective coating on a substantially transparent surface of a greenhouse in accordance with claim 46.

As a basis for rejection, the Office Action essentially employs the '498 as an invitation to experiment with all vinyl polymers and to try an unlimited number of substitutions in order to arrive at the protective coating of the instant application. However, in order for a reference to "reasonably suggest" a specific composition, the reference must indicate which parameters of experimentation are critical to success or provide an indication of the direction of likely success as opposed to leading a person skilled in the art to try each of numerous combinations. In re O'Farrell, 853 F.2d 498 (Fed. Cir. 1988). The '498 fails to provide any "blazemark" which points the art to such commercially acceptable vinyl polymers as claimed in the instant application. In re Rushig, 379 F.2d 990, 994-95, 154 USPQ 118, 122 (CCPA 1967). The '498's description of use of a composition for a protective film for agricultural uses similarly teaches away from the instant application, as the protective film described therein is for packaging purposes, not for application to a substantially transparent surface of a greenhouse to protect against radiation.

As EP '498 fails to disclose a number of the limitations described in the instant application, it can not serve as a basis for a rejection under 35 U.S.C. §102. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). Withdrawal of the instant rejection is requested.

Claims 42, 43, and 45 stand rejected as being obvious over EP '498 in view of US 6,218,074 ('074). This rejection is in error. As discussed above, EP '498 fails to teach or suggest the greenhouse having a protective coating in accordance with the independent claim. At most, EO '498 provides an invitation to try an unlimited number of substitutions to arrive at the protective coating of the instant application.

US '074 does not cure the deficiencies of the EP'498. The protective coating of US '074 is designed for photoimageable resins for printed circuit board manufacturing, which is different from application to a transparent surface of a greenhouse. Thus, US '074 is significantly different from the protective coating of the instant application and from EP '498. US '074 provides no guidance to select the particular features of the instant claims nor does it describe application of a protective coating to a substantially transparent surface of a greenhouse.

The use of US '074 to cure the numerous deficiencies of EP '498 can only be based on improper hindsight afforded by the instant application. The coatings of EP '498 and US '074 are for completely different technological areas that are dealing with completely different problems. Although EP '498 describes many uses for acrylic polymers, those uses do not include the manufacture of photoimageable resins for printed circuit board manufacturing as described in US '074.

One of ordinary skill in the art would not have considered the non-analogous technologies described in EP '498 and US '074 as interchangeable. Any modification of the protective coating of EP '498 to include the adhesion promoters and thickeners of US '074 is improper as it is based on hindsight afforded by the instant application. In re Geiger, 815 F.2d 686, 687 (Fed. Cir. 1987). Withdrawal of the instant rejection is requested.

Claim 49 stands rejected as being obvious over EP '498. While applicants dispute the propriety of this rejection, Claim 49 has been cancelled without prejudice.

Claims 30-33, 36, and 39-49 stand rejected as being anticipated by EP '067 or as being obvious over EP '067. The rejection is in error. The Office Action incorrectly implies that the

applicant is discussing a preferred embodiment of EP '067. This is incorrect as EP '067 discusses only a *single* specific embodiment. While EP '067 may discuss vinyl polymers in general, it fails to disclose the important determination that a vinyl polymer can be used as a binder for a commercially acceptable protective coating that has "a weight-average molecular weight of 10,000-100,000 and an acid value of 40-250, wherein the binder has a polydispersity of 2-6 and a glass transition temperature of 10 to 60 °C, and wherein the protective coating is on said substantially transparent surface and the protective coating is removable with a removing agent comprising a base and a complex former." EP '067 most assuredly does not provide any "blazemark" which points the art to such commercially acceptable vinyl polymers. In re Rushig, 379 F.2d 990, 994-95, 154 USPQ 118, 122 (CCPA 1967). Nor does it point the art to the use of a vinyl polymer as a binder in a commercially acceptable protective coating with the specific limitations of the instant application when styrene-maleic anhydride is used.

As pointed out in the July 24, 2002 Declaration of Mr. Bertels (an inventor in the instant application and EP '067), the only specific product in EP '067 is outside the scope of the present invention and does not possess the advantages of the instant application. The superior properties of the protective coating having a vinyl polymer with a binder having "a weight-average molecular weight of 10,000-100,000 and an acid value of 40-250, wherein the binder has a polydispersity of 2-6 and a glass transition temperature of 10 to 60 °C, and wherein the protective coating is on said substantially transparent surface and the protective coating is removable with a removing agent comprising a base and a complex former," are not disclosed in EP '067.

With respect to the Office Actions' request for a product sheet for the specific polymer SMA 2565 disclosed in EP '067, it is attached hereto. This product sheet confirms the statements in the declaration of July 24, 2002, and further evidences that the discussion in EP '067 neither anticipates nor makes obvious the claimed invention.

As a basis for rejection, the Office Action essentially employs the '067 as an invitation to experiment with all vinyl polymers and to try an unlimited number of substitutions. However, in order for a reference to "reasonably suggest" a specific composition, the references must indicate

which parameters of experimentation are critical to success or provide an indication of the direction of likely success as opposed to leading a person skilled in the art to try each of numerous combinations. In re O'Farrell, 853 F.2d 498 (Fed. Cir. 1988). The person of ordinary skill in the art would not have been led to try the Composition Product 1 of the '067 to make a protective coating with a vinyl polymer binder having "a weight-average molecular weight of 10,000-100,000 and an acid value of 40-250, wherein the binder has a polydispersity of 2-6 and a glass transition temperature of 10 to 60 °C, and wherein the protective coating is on said substantially transparent surface and the protective coating is removable with a removing agent comprising a base and a complex former." Withdrawal of this rejection is requested.

Claims 30-33, 36, and 39-49 stand rejected as being obvious over EP '367 in light of EP '067. EP '367 discloses forming a protective coating on products to protect such products during transport and from the environment. EP '367 fails to disclose a greenhouse comprising a "substantially transparent surface; a protective coating comprising a pigment and a binder, the binder comprising a vinyl polymer based on one or more of the monomers selected from the group consisting of methyl metacrylate, butyl acrylate, 2-ethylhexyl acrylate, ethyl acrylate, styrene, methacrylic acid and acrylic acid, having a weight-average molecular weight of 10,000-100,000 and an acid value of 40-250, wherein the binder has a polydispersity of 2-6 and a glass transition temperature of 10 to 60 °C, and wherein the protective coating is on said substantially transparent surface and the protective coating is removable with a removing agent comprising a base and a complex former."

The protective coating of EP '367 neither describes inclusion of a pigment in the protective coating nor the application of the protective coating on a transparent surface of a greenhouse. Further, EP '367 fails to describe a protective coating with the properties as the protective coating of the instant application. EP' 367 is designed to protect the substrate to which it is applied from corrosion, it was not designed, and is not suitable for use in a greenhouse to protect the greenhouse's contents from solar radiation. The protective coating of EP '367 is clearly designed for different purposes and has significant different from the

protective coating of the instant application. The use of EP '067 to cure the numerous deficiencies of EP '367 is based on improper hindsight afforded by the instant application. The coatings of EP '367 and EP '067 are for completely different technological areas that are dealing with completely different problems. EP '367 describes a protective coating to protect metals from corrosion caused by water; EP '067 describes a protective coating to protect material behind a transparent surface from solar radiation. One of ordinary skill in the art would not have considered the non-analogous technologies described in EP '367 and EP '067 as interchangeable as there is no motivation in EP '367 whereby a person of ordinary skill in the field of the invention would make the combination with EP '067. Any modification of the protective coating of EP '367 to include a pigment and change the type of surface to which the protective coating of EP '367 is improper as it is based on hindsight afforded by the instant application. In re Geiger, 815 F.2d 686, 687 (Fed. Cir. 1987). Withdrawal of the instant rejection is requested.

CONCLUSION

It is believed that no fee is required for this submission. If any fees are required or is an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

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